

TECHNICAL ADVISORY

To: Building Officials
Building Codes Council Members
Ken McNeil (Requestor)

From: Tim Lloyd
Bureau of Building and Measurement Standards
Department of Labor & Industry

RE Technical Advisory T1-07

Date: July 25, 2007

Enclosed is a Technical Advisory that was issued to Ken McNeil of Helena by the Bureau of Building and Measurement Standards (BBMS). The process for a Technical Advisory is provided in Administrative Rules of Montana (ARM) 24.301.213 (copy enclosed). State law requires that a copy of this Technical Advisory be sent to the requestor, Building Code Council members and city, county and town building officials. Note that Technical Advisories are not binding on city, county or town code enforcement programs.

In accordance with ARM 24.301.212 (copy enclosed), Code Interpretations may also be requested by an affected party. Be advised that Code Interpretations are binding on city, county or town code enforcement programs but it will likely take 45-60 days to complete the process.

Please review these ARM's so you are familiar with the procedures for Technical Advisories and Code Interpretations. The BBMS is currently working on making these procedures available on our website. This should be completed in two or three weeks and a notice when the website is working will be sent to all Building Code Council members and city, county code enforcement programs. Forms may also be obtained by contacting the BBMS.

Please feel free to contact me at (406) 841-2058 if you have any questions regarding this matter.

ARM 24.301.213 CODE TECHNICAL ADVISORIES (1) Code technical Advisories are available for questions concerning any of the state building related codes (building, plumbing, mechanical, electrical, boiler and elevator) and may be requested by an affected party (building official, contractor, designer, owner, etc.), in writing, on forms provided by the department. The department may research and investigate the question and may prepare a preliminary written response, which includes the department's interpretation and justification as soon as possible. The affected party and the Building Codes Advisory Council will be provided with the preliminary written response and will be given five working days to submit comments. After review of any comments the department will prepare a final written response, under signature of the Building Codes Bureau chief.

(2) Code technical advisories are not binding on city, county, or town code enforcement programs.

(3) Code technical advisories will be dated, chronologically numbered, placed in the department's central registry and distributed to the requestor, Building Codes Council and all certified city, county, and town building code enforcement programs. (History: 50-60-203, MCA; IMP, 50-60-203, MCA; NEW, 1999 MAR p. 1885, Eff. 10/1/99; TRANS, from Commerce, 2001 MAR p. 2301; AMD, 2003 MAR p. 2299, Eff. 10/17/03.)

ARM 24.301.212 CODE INTERPRETATIONS (1) Code interpretations concerning any of the state building-related codes enforced by cities, counties or towns (building, plumbing, mechanical and electrical) may be requested by an affected party (building official, contractor, designer, owner, etc.), in writing, on forms provided by the department. The affected party must first show a need for a code interpretation because of differing or inconsistent interpretations of the code provision at issue between city, county, or town building officials or between city, county, or town building officials and the department. The department will research and investigate the question and will prepare a preliminary written response, which includes the department's preliminary interpretation and justification of the question as soon as possible.

(2) The preliminary interpretation and justification of the question will be distributed to the requestor, the Building Codes Council and to all city, county, or town code enforcement programs, currently certified for enforcement of the applicable code concerning the question, for their review and comment. Comments and suggested amendments concerning the question must be returned to the department within 30 days of the date of the distribution of the preliminary interpretation and justification of the question.

ARM 24.301.212 CODE INTERPRETATIONS (conitued)

(3) The department will consider all comments and suggested amendments received during the 30-day comment period and prepare a proposed interpretation and justification of the question to be distributed, along with a ballot, to all building officials of city, county, and town code enforcement programs, currently certified for enforcement of the applicable code concerning the questions. The ballot will be to "concur" or to "not concur" with the proposed interpretation and the ballot must be signed and dated by each voting building official and returned to the department within 15 days of the date of distribution of the proposed interpretation.

(4) The ballots will be counted by the department and the proposed code interpretation will become final and binding on all city, county, and town code enforcement programs and the department if a simple majority of voting building officials "concur". If the voting on the proposed code interpretation is tied, the department shall be entitled to break the tie vote. If a simple majority of voting building officials vote "do not concur", the proposed code interpretation will become a technical code advisory, as established in ARM 24.301.213 and is not binding on local code enforcement programs.

(5) Code interpretations, which receive a "concur" status as established in (4), shall be certified by signature of the Building Codes Bureau chief as having met the established procedures and the code interpretation will be dated, chronologically numbered, placed in the department's central registry and distributed to the requestor, Building Codes Council and all city, county, and town code enforcement programs, which are then certified for building code enforcement. (History: 50-60-203, MCA; IMP, 50-60-203, MCA; NEW, 1999 MAR p. 1885, Eff. 10/1/99; TRANS, from Commerce, 2001 MAR p. 2301; AMD, 2003 MAR p. 2299, Eff. 10/17/03.)